

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MIGUEL SERRATO,

Defendant.

4:20-CR-3009

ORDER

This matter is before the Court on the defendant's motion for copies ([filing 48](#)). The defendant is requesting his docket sheet, judgment, sentencing transcripts, and plea agreement. The motion will be denied.

To begin with, because the defendant did not appeal, no transcript was prepared of his sentencing. An indigent defendant bringing a postconviction proceeding under [28 U.S.C. § 2255](#) may have a transcript prepared at the government's expense, if the suit is not frivolous and the transcript is needed to decide the issue presented by the suit. [28 U.S.C. § 753](#). But any request for a free transcript prior to the filing of a [§ 2255](#) motion is premature. *Chapman v. United States*, 55 F.3d 390, 390-91 (8th Cir. 1995). And the defendant has not filed such a motion.

The other filings the defendant has requested are part of the Court's record. But the defendant does not have the right to receive copies of documents without payment, even if he is indigent. *See*, [28 U.S.C. § 1915](#); *Lewis v. Precision Optics, Inc.*, 612 F.2d 1074, 1075 (8th Cir. 1980). And the defendant has not explained why he needs the documents other than referring generally to a "postconviction motion." *See* [filing 48](#). The Court will, therefore, deny his motion for copies at this point.

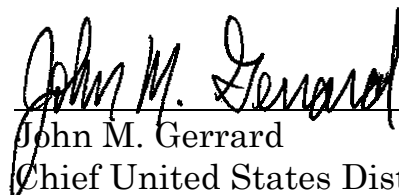
The defendant may, if he files a § 2255 motion, move for a sentencing transcript to be prepared pursuant to § 753, and the Court will at that time consider whether or not his motion is frivolous and whether the transcript is necessary. Alternatively, the defendant can pay for a transcript to be prepared and for the copies he has requested. The Court will direct the Clerk's office to provide the defendant with a copy of a request for transcript form, which the defendant may complete and return. The defendant's sentencing hearing was recorded by a court reporter, so if the defendant returns the request for transcript form, the court reporter will contact the defendant to arrange for payment of the fee. For the docket sheet, and the other documents the defendant has requested, he would need to pay for the copies at 50¢ per page. Those documents total 19 pages, resulting in a cost of \$9.50.

IT IS ORDERED:

1. The defendant's motion for copies ([filing 48](#)) is denied.
2. The Clerk of the Court is directed to provide the defendant with a copy of this order and a request for transcript form.

Dated this 21st day of June, 2021.

BY THE COURT:



John M. Gerrard
Chief United States District Judge